



Frequently Asked Questions about Food Sales at Farmers' Markets

Information for Market Masters from the
Michigan Department of Agriculture

December 2004

Farmers' markets have been a traditional way to link local food producers with consumers while at the same time creating a sense of community. Across Michigan, these markets vary in the type of food and goods sold. It is generally up to the Market Master to oversee the vendor requirements set by the city or town that give each market a unique identity. Market Masters should also be aware of some of the food law requirements in Michigan. Interested foods sellers or Market Masters can contact their nearest Michigan Department of Agriculture (MDA) regional office if they have questions about food selling practices at their farmers' market.

Here are answers to some common questions asked about certain food sales in a farmers' market setting:

1. A vendor wants to sell wild mushrooms at the farmers' market. They picked the mushrooms in the forest. What are some concerns about this practice?

If the collector is not an expert at identifying edible wild plants and mushrooms, there is a danger that poisonous varieties were harvested. Consumption of certain varieties can lead to illness or even death.

It should be noted that in some states, farmers' markets are encouraged to require mushroom sellers to sign agreements releasing the city and Market Master of liability from damage claims in case of illness or death. Additional restrictions may include limiting mushroom varieties to some of the more common ones like morel, oyster, sulfur shelf, and chanterelles.

MDA requires any wild mushroom seller to do all of the following to sell wild mushrooms:

- ❑ The seller is, or hires an expert, known to be trained and capable in the identification of safe mushroom varieties.
- ❑ The seller sends a written statement to their Michigan Department of Agriculture regional office identifying the expert, and the expert's procedure for preventing the sale of potentially injurious mushrooms. The statement must include an explanation of the expert's education, experience, and expertise.
- ❑ The seller must first check, then include a written statement that the wild mushrooms were harvested from land that is free of chemical and

biological hazards such as applied weed killer spray, contaminated toxic waste, and untreated animal manure.

- ❑ Each wild mushroom piece will be inspected and identified by the recognized expert, or competent trained person, and only those mushrooms identified as safe may be sold.
- ❑ Each storage container of mushrooms must be labeled with the scientific name of the mushroom variety. Packaged mushrooms may be identified by the common name and shall be properly labeled (responsible party name & address, net weight, etc).
- ❑ Written records with the name and address of the buyer (and business, if applicable), and quantity, and variety of mushrooms sold must to be kept for a period of not less than 2 years.
- ❑ Wild mushrooms must be protected throughout the handling and distribution to prevent contamination, and handled as other human foods.

The stand operator needs to obtain the above approval, but does not need a license to sell mushrooms that are whole and uncut. However, the chopping or slicing of mushrooms must take place in a licensed and approved food establishment.

2. A farmer uses his own green and purple cabbage along with his carrots to make a coleslaw mix. What are your thoughts about this?

Whole, uncut produce is considered raw and unprocessed and can be sold without restriction by a vendor.

However, coleslaw mix involves cutting and blending carrots and cabbage. Once cut, vegetables fall into the category of “processed food”. The shredding of cabbage and carrots are only allowed at a licensed and approved location. Therefore slaw mix usually cannot be made at the farmer’s market or at a temporary event site or at an unlicensed location such as a person’s home.

If produced at a licensed location, packaged slaw mix must be labeled and held under refrigeration.

If the farmer is licensed at a processing facility, a separate license is not needed to sell the slaw mix at the farmers’ market. However, if the seller is not the producer of the produce used to make the slaw mix, a food license would be needed at the farmers’ market location where the slaw mix is sold under refrigeration and the mix would need to come from a licensed commercial source.

3. A farmer sells a “salad mixture” of assorted lettuce leaves and other greens from an open box (in bulk). Since the lettuce leaves are

intact and not cut, is a license required and are there any food safety concerns?

As long as the lettuce leaves remain intact and undamaged when de-stemmed, a license would not be required at the farmer's packing facility or the farmers' market. However, the lettuce or other greens must be handled safely and protected from contamination.

Although the consumer is responsible for washing the salad mixture prior to use, we recommend that a sign be placed at the point-of-sale to remind customers that this produce should be washed before eaten since it resembles a "ready to eat" form.

4. Can a vendor offer food samples at farmers' markets for people to taste?

This depends on a number of factors such as the type of food, method of preparation, and sanitary controls.

Most food sampling is generally not feasible at farmers' markets if the food is to be handled and cut or sliced on site or at home. In most cases, markets lack sinks for washing hands, utensil washing sinks to clean and sanitize knives and trays, and water for washing fruits and vegetables. Therefore, sampling of foods that have to be sliced or cut at farmers' markets without sanitary controls is discouraged.

The area food inspector should be consulted to discuss plans for on site sampling. Adequate controls should include clean, single-use plates or trays, a method to clean & sanitize (or rotate) knives frequently, handwashing and glove use, and other precautions.

All vendors offering food samples must realize that they are responsible for the safety of the food samples being offered. The vendors offering samples need to take precautions to make sure food samples are handled and displayed properly to prevent contamination, especially from hands.

It is recommended that samples be prepared at an approved facility prior to arriving at the market. For example, if a vendor who owns a bakery cuts doughnuts into pieces at a licensed bakery, places them on a tray, puts a toothpick in each piece, and keeps the tray covered with plastic wrap, sampling may be allowed. The same may be true for hard cheeses, confections, bread, and produce.

5. A vendor from Ohio sells his home-canned pickles and jams at farmers' markets in Ohio under that state's new Home Cottage Production rules. Can those products be sold at Michigan farmers' markets?

The Cottage Food Production Operation rule is specific to Ohio (some other states have similar allowances). In Ohio, residents are allowed to produce jams and jellies, baked goods, and other non-potentially hazardous foods in their homes. These foods are allowed to be sold in Ohio, and are not subject to licensing and inspection requirements. They must bear a statement on the label that reads: ***"This Product is Home Produced."***

Michigan does not have any similar rules that allow foods to be made in the home. Foods offered for sale in Michigan must be made and packaged at a licensed and inspected location. Therefore, home products produced legally in Ohio cannot be sold in Michigan.

All processed foods sold in Michigan are subject to the Michigan Food Law of 2000, Act 92 of 2000, as amended, that requires food offered for sale to derive from an approved source. Foods that have been processed at an unlicensed location are prohibited.

6. Is there a problem if a person wants to sell garlic or herbs in oil?

Flavored and infused oils have gained popularity, and the risks associated with these products need to be well understood. The Food and Drug Administration requires all commercial processors to acidify the garlic or herbs in oil mixtures, and to test these foods for safety.

In Michigan, flavored oils and vinegars offered for sale must be manufactured in licensed and approved locations. If these requirements have been met, no license is needed at the farmers' market location to sell bottled oils & vinegars.

7. Can a vendor sell unpasteurized apple cider and does it need to be refrigerated?

There have been recent changes in requirements for apple cider operators. A cider maker that only sells the cider directly to consumers is considered a *retailer*. Retailers may produce and sell unpasteurized cider, but it must bear an approved warning statement on the container. Owners of a retail cider mill may sell their own unpasteurized cider at a farmers' market.

Sometimes, an orchard owner takes apples to a cider mill to have cider made from those apples. The orchard owner doesn't own the cider mill but has his cider

bottled and labeled as a service. This is called custom pressing. As of January 3, 2004, this cider must be pasteurized (treated). So a grower who has apples pressed by someone else can only sell pasteurized cider. A person who merely purchases cider and sells it at the farmer's market can only sell pasteurized cider.

While apple cider does not necessarily need to be sold from a refrigerated display at the farmers' market, it is recommended that the seller institute some method of temperature control during the transport and sale of apple cider.

8. Are there requirements for those selling honey or maple syrup?

To be sold at a farmers' market, maple syrup and honey must have been processed at a licensed and approved facility. A license is not required at the farmers' market for people selling honey or maple syrup from an approved source.

9. Do the egg producers selling their eggs at the farmers' market need to keep eggs refrigerated? Are they allowed to re-use labeled egg cartons with another distributor's name and address on the carton?

Eggs sold by the producer must be kept at refrigeration temperatures at the farmers' market. This is because eggs are capable of supporting the growth of Salmonella.

The labeling information on a carton identifies the type of egg, size of the egg, grade of the egg, and the name of the responsible party and address. Re-using the egg cartons from another egg producer is misleading and not allowed by law.

Farmers selling their own eggs do not require a separate license at the farmers' market if they are already licensed at their packing location. Vendors selling eggs not of their own production require a license at the market site.

10. What are the requirements for a farmer selling meat and poultry at the farmers' market?

The USDA requires that persons slaughtering and selling beef, pork, lamb, or more than 10,000 birds per year be under continuous, federal inspection. A USDA seal must appear on the meat.

Farmers may sell the meat from their animals at the farmers' market if it was processed at a USDA inspected facility. Small poultry farmers can have their

birds processed either at a USDA or an MDA facility. If from an MDA facility, it is helpful to have a copy of the MDA license on hand at the farmers' market to show to the Market Master or food inspector. If the vendor isn't the producer of the animals from which the meat is processed, a site license is required to sell meat at the farmers' market.

Selling packaged meat at the farmers' market requires sanitary handling, and refrigeration. Packaged meats may be sold frozen, or refrigerated at 41°F or below.

Handling of unpackaged meat or poultry is not allowed at a typical farmers' market. If you have any questions, contact your Michigan Department of Agriculture regional office.

11. Could a vendor also offer grilled samples of their bratwurst while selling their raw meats at the market?

Preparing or cooking raw meats at the farmers' market is not allowed unless the stand meets all the requirements for a Temporary Food Establishment. Some of those requirements include:

- ✓ A hand washing facility with soap and paper towels,
- ✓ A ware washing sink to clean and sanitize food equipment and utensils,
- ✓ A source of potable hot water,
- ✓ A proper method to dispose of waste and wastewater,
- ✓ Safely displayed foods that are protected from environmental conditions such as insects, birds, dust, and dirt,
- ✓ Properly stored food equipment, utensils, paper goods,
- ✓ Thermometers to monitor cooking and hot holding temperatures,
- ✓ Employees with clean clothes and hair covers, and
- ✓ Access to a toilet facility.

12. What about a vendor who has a hot dog cart, makes snow cones, hand dips ice cream, prepares sandwiches, or any similar food service activity?

The onsite preparation and sale of food for immediate consumption is regulated by local health departments. A food service establishment license must be obtained from the local health department whenever food is prepared for direct consumption. Some vendors may operate Special Transitory Food Units that are licensed annually and are not required to obtain a separate license for the temporary event. Contact your local health department.

13. What about sales of bulk baked goods like bagels?

Vendors are discouraged from simply purchasing bulk baked goods and selling them out of covered containers each week at a farmers' market. In order to sell bagels or doughnuts at the farmers' market, the vendor must have a licensed base location to handle the food and wash containers & utensils (it cannot be done at a private home).

If the vendor owns a bagel shop or bakery, the bulk goods sold at the farmers' market must be:

- ✓ Sold from an enclosed and protected container,
- ✓ Handled with tongs or gloves (no bare hand contact is allowed),

The vendor must also:

- ✓ Have access to a hand washing facility somewhere at the farmer's market, and
- ✓ Return to a licensed base of operations to clean and sanitize food equipment such as tongs and containers.

Otherwise, a vendor may serve pre-wrapped baked goods (wrapped at a licensed facility).

Preparation or assembly by the operator - such as the spreading of cream cheese on bagels triggers the requirements under (11) above. This can be avoided by providing individual packets of cream cheese and plastic knives for customer use.



www.michigan.gov/mda